

AFFIDAVIT

1) AFFIANT/AGENT. I, Kevin Backes, a Border Patrol Agent (“BPA”) of the United States Border Patrol, Customs and Border Protection, have been employed by the USBP/CBP for 22 years and am currently assigned to the Grand Forks Sector Prosecution Unit.

Your affiant has reason to believe that PACHECO-Miranda, Mario Eligio (YOB: 1999), illegally re-entered the United States after being removed, in violation of 8 U.S.C. § 1326(a).

2) INITIAL ENCOUNTER. On May 14, 2025, at about 4:52 PM, BPA Bardell responded to a request for assistance from the Benson County Sheriff's Office. Deputy Carlson had stopped a vehicle near Churchs Ferry for failure to wear a seat belt and encountered two individuals. The driver presented what appeared to be a United States immigration document, and the passenger, PACHECO, presented a Mexican passport.

BPA Bardell conducted records checks based on the information found on the documents. The driver was found to have lawful status in the United States. PACHECO was found to have been previously removed. BAP Bardell requested to talk to PACHECO and identified himself as a United States Border Patrol agent. PACHECO initially claimed to be lawfully present in the United States, but when BPA Bardell confronted him about being previously removed PACHECO admitted to being removed from the United States sometime in 2018 and shortly thereafter re-entering the United States illegally in Texas. PACHECO was advised that he was under arrest for illegally re-entering the United States. Deputy Carlson volunteered to transfer PACHECO to the Ward County detention facility in Minot, ND for holding until arrangements could be made to transport him to the Bottineau Border Patrol Station. BPA Holmes later took custody of PACHECO.

3) POST-ARREST INVESTIGATION. On May 14, 2025, PACHECO was transported to the Bottineau Border Patrol Station for processing and enrolled into NGI/IDENT, a fingerprint identification system. The NGI/IDENT results revealed PACHECO had been previously removed from the United States and no criminal record in the United States was found.

PACHECO is a citizen and national of Mexico.

4) IMMIGRATION HISTORY.

1. Arrest Date:	04/27/2018
Arrest Agency:	Three Points, Arizona Border Patrol Station
Charge:	Section 212(a)(7)(A)(i)(I) of the INA – Immigrant Without Immigrant Visa
Disposition:	Expedited Removal. Removed to Mexico on 04/28/2018, at Nogales, AZ.

5) CRIMINAL HISTORY. None found.

⑥) **MIRANDA RIGHTS & CONSULAR NOTIFICATION.** On May 15, 2025, BPA Norkus, witnessed by Supervisory BPA Johnston, notified PACHECO of his Miranda Rights per Service Form 1-214. PACHECO acknowledged his rights by signing the Service Form but requested a lawyer be present before answering any questions.

Agent Norkus notified PACHECO of his right to consular communication. PACHECO stated that he did not wish to speak to a Mexican Consulate official.

No record could be found to indicate that PACHECO has ever applied for or been granted permission to reenter the United States by the Attorney General or by her successor, the Secretary of Homeland Security.

In my training and experience, the above facts constitute a violation of 8 U.S.C. § 1326(a).

The foregoing is true and correct to the best of my knowledge and belief.



Kevin Backes
United States Border Patrol Agent

Sworn to before me ____ [in person][by reliable electronic means], this 16th day of May, 2025.



Alice R. Senechal
United States Magistrate Judge